## For the Northern District of Californi

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## FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 09-00320 WHA

Plaintiff,

v.

RENE NAVAREZ,

Defendant.

ORDER DENYING CERTIFICATE APPEALABILITY OF ORDER NYING DEFENDANT'S MOTION DER SECTION 2255 AND DENYING REQUEST TO PROCEED IN FORMA PAUPERIS

A recent order denied defendant's motion to vacate, set aside, or correct his sentence under Section 2255. A certificate of appealability is now requested. Pursuant to 28 U.S.C. 2253(c), a district judge may issue a certificate of appealability if the "applicant has made a substantial showing of the denial of a constitutional right." Where a district judge has denied a habeas petition on procedural grounds, without reaching the defendant's underlying constitutional claims, as here, the defendant must show that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000). Defendant has failed to make this showing. Consequently, a certificate of appealability is **DENIED**.

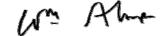
Defendant has also requested leave to proceed in forma pauperis, but has not submitted information in support of his request. The request to proceed in forma pauperis is **DENIED**,

## Case 3:09-cr-00320-WHA Document 67 Filed 02/21/12 Page 2 of 2

without prejudice to resubmission with the appropriate materials.	The Clerk shall serve this order
on defendant.	

## IT IS SO ORDERED.

Dated: February 21, 2012.



WILLIAM ALSUP UNITED STATES DISTRICT JUDGE